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Preparatory Commission of the International Criminal Court
New York
8-19 April 2002
1-12 July 2002

Statement by the Presidency of the European Union on behalf of the European Union

Information document submitted by Spain

Today, at United Nations Headquarters in New York, the requirement of 60 ratifications for the entry into force of the Rome Statute, creating the International Criminal Court, has been met. The European Union salutes this event, which is a step of great importance for the defence of fundamental rights of human beings and for the affirmation of law and justice in the world.

The European Union congratulates those States whose ratifications have made possible the establishment of the International Criminal Court and makes an appeal to other States to join the Statute so that the Court promptly reaches universality.

The European Union, which has actively contributed to the drafting, development and entry into force of the Rome Statute, reaffirms its commitment to support the early operation of the International Criminal Court in its seat at The Hague.

The International Criminal Court, the first great institution to come to life in the new millennium, will be an essential component in the struggle against impunity for acts of genocide, crimes against humanity and war crimes, which are serious crimes of concern to the international community. It deserves the wholehearted support of all of us.

Madrid and Brussels, 11 April 2002

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Statement by the Director-General, ICC Task Force, Ministry of Foreign Affairs of the Government of the Kingdom of the Netherlands, Mr. Edmond Wellenstein, on the revised draft budget for the first financial period of the International Criminal Court, presented during the ninth session of the Preparatory Commission on 15 April 2002

1. Please allow me first of all to thank you, Mr. Chairman, your predecessor and the Secretariat for presenting a revised draft budget for the first financial period of the Court (PCNICC/2002/WGFYB/L.1). It stands to reason that we have not yet been able to study the contents in its entirety. Suffice it to say that we regret the fact that it was not possible for the Secretariat to send us a finalized document well in advance of the meeting. Although it is highly unlikely that we will have instructions in time in order to be able to participate in discussions on details, I am able to give you some "heads-up" on a more general note. In this context, we regret that the Secretariat apparently was unable to approach us. We would gladly have been of assistance. Obviously, a number of questions relating to details of the host country's financial involvement would not have had to be raised in the document.

2. The revised draft budget for the first financial period is an extremely important document for us, not only because we are in the top-10 list of assessed contributors, but also because we will — voluntarily — spend a considerable extra amount of money on the ICC in the coming years beyond the contributions. The Netherlands delegation is by and large pleased with the philosophy of the document. Especially part one has vision and attests to a high level of creativity and insights into the inner workings of an international tribunal by the drafter. This draft budget should be seen and debated as a core policy document for the operational start of the ICC. This means that ICC policy aspects should be dominating the discussions, instead of budgetary aspects. The Netherlands will consider it from that perspective, it being understood that the budgetary basis should be sound beyond any doubt. We are particularly pleased with the proposal to set up a Division of Common Services, which to our mind would help in guaranteeing effective and efficient management practices of the Court. We also have a number of concerns. I will just mention them briefly here, but we will be more detailed later. We strongly suggest to add a

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provision for an internal auditor. There is a need to project vacancy rates. The position of the Registrar in the context of administration and finance does not yet seem to be fully clear yet. We would also like to note our concerns as to paragraph 116, relating to the Assistant Secretary-General post mentioned at the end of the paragraph. We will take the position that this post should not be filled prior to the election of the Registrar later in 2003.

3. It is our position that it will be very difficult and sometimes impossible to work towards a full and regular budget based on performance indicators, etc. We will judge the outcome according to standards that may diverge somewhat from the usual United Nations practice.

4. We are supportive of your working methods, Mr. Chairman, and we thank you for the time and efforts you have already undertaken last week in the preparation of this week's session. We will work closely with you in securing an agreement on the parameters for the document in order for all of us to be better prepared for the July meetings. We will not only raise problems but will also suggest solutions.

5. As far as we understood them, your predecessor's intentions were to request the Secretariat to draft a so-called full-cost budget. On the basis of such a document, we would have been able to be very articulate, in an earlier phase of the preparations. I ask therefore for your indulgence if once in a while the Dutch delegation will not yet be able at all times during this week's discussions to enter into specific details. For instance, we have not been able to assess whether the calculation methods of the United Nations do conform to ours while formulating our bid. Neither have we as yet been able to assess all the assumptions on which certain United Nations calculations are based. Rest assured Mr. Chairman, that we have as much interest as you have in coming to terms with that as swiftly as possible.

6. As you are all aware, the Netherlands has every intention to be a gracious and generous host to the ICC, as it is to so many other legal institutions, most notably so in this context to the International Court of Justice, the Permanent Court of Arbitration and to the International Tribunal for the Former Yugoslavia Foreign Minister Van Aartsen, in his speech in September 2001, made that clear in unambiguous terms. The contents of the speech were based on the elements we had elaborated in the bidbook that was issued before the Rome Conference.

7. The Netherlands has offered premises to the Court free of rent for a period of 10 years, starting at the date of the entry into force of the Statute. For some years, that is to say until 2007/2008, the Court will be housed in so-called interim premises. The Netherlands offer for spending on the interim premises amounts to €33 million, €10 million of which will be available for the interior layout and design, including the courtroom. Therefore, as to the budget for the first financial period, the Court will not have to spend money on rent for the premises. This is without prejudice to our position as to the assumptions of the Secretariat as mentioned in paragraph 147.

8. On the interior layout and design, including the courtroom, our bid entails a spending level of €10 million. We take this to include the making of arrangements for offices, a number of meeting rooms, cables for network systems and security aspects. The €10 million will also include the building of a courtroom in the interim premises. Therefore, the Court will not have to spend €10 million in its first financial period on these matters.

9. The Netherlands Government already indicated in September 2001 that it would contribute financially to the initial meetings of the Assembly of States Parties and its Bureau. I would like to note in this respect two elements in the Foreign Minister's speech of last September that were not quoted in the narrative of the document under consideration. First of all, the Minister said that the Netherlands feels a special, but by no means exclusive, responsibility for the effective functioning of the Court. Secondly, he mentioned that decisions as to our contribution to the holding of the initial meetings would be taken on an agreed budget, once the political parameters had been assessed. I would appreciate, Mr. Chairman, if you could ask the Secretariat to include these quotes in the narrative. Well, the budget for the first meeting is known, US$ 2.8 million, and we have been able to assess the political parameters on the basis of the recommendation of the Preparatory Commission, agreed to on the first day of the present session. These are that a contribution to the Trust Fund that the Secretary-General has recently established for this purpose is deductible from the assessed contributions. In our view, contributing to this Trust Fund is a duty of all States Parties. The Netherlands has therefore decided to transfer without delay, and in full, €500,000 as a deductible contribution to the Trust Fund for the first meeting of the Assembly of States Parties. Furthermore, the Netherlands will make a voluntary (i.e. non-deductible) contribution of €300,000 to financially support subsequent meetings of the Assembly of States Parties and its Bureau during the first financial period.

10. The Government of the Netherlands has expressed its commitment to fully finance the Inaugural Meeting of the Court at The Hague, that is to say, the meeting in open Court for the solemn undertaking by the judges to exercise their respective functions impartially and conscientiously. Hotel costs for the judges will be included. We will also pay for a follow-up meeting of the judges at The Hague for a period of up to two days in order for them to elect the Presidency and to divide themselves up into Chambers.

11. The Netherlands will also facilitate the smooth start of the Court, as the Foreign Minister has said, by providing free of charge up to 100 workstations, furniture and equipment, in the first year. We interpret "first year" as the first financial period. That means that the Court will not have to spend money in the first financial period on *one-off* investments for desktops, chairs and cabinets relating to these 100 workstations. Workstations include telephones, desktop computers and printers compatible with the future network systems of the Court. This also includes a limited number of scanners and photocopiers. We will, in cooperation with you, Mr. Chairman, and the Secretariat, work on the further details. Before that, as you will understand, we need some further clarifications from you and the Secretariat as regards the to us as yet unknown premises of paragraphs 106, 148, 149 and 150. Again, where necessary, the calculations of the United Nations need to be brought into conformity with ours.

12. Thank you, Mr. Chairman. A copy of this statement will be made available to you as soon as possible.